

## Introduction

# Notice of Retirement Board Action on Disability Retirement Application

Updated September, 2001

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### Who should use this form?

If a retirement board decides to deny an application for disability retirement, the *Notice of Retirement Board Action on Disability Retirement Application* shall be sent to all parties (the member, the member's employer (if the application is of an involuntary nature), the member's attorney, and the Public Employee Retirement Administration Commission) within three days of the decision.

### Does a member have any immediate recourse if he(she) feels he(she) should not be retired?

Under G.L. c. 32, § 16(3) and 16(4), the member may appeal the retirement board's decision. Copies of these sections must be attached to the *Notice of Retirement Board Action on Disability Retirement Application*. Upon request, the retirement board shall assist the applicant in the filing of an appeal.



# Notice of Retirement Board Action on Disability Retirement Application

Updated September, 2001

**Retirement  
Board: Please**  
place your address  
and phone  
number here. ▶

*Revere Retirement Board*  
281 Broadway  
Revere, MA 02151

Based on the information gathered and the regional medical panel's opinion, the retirement board has voted to deny the disability retirement application of the member noted below. The retirement board must forward a copy of this denial to the member, the member's employer (if the application is of an involuntary nature), the member's attorney, and the Public Employee Retirement Administration Commission. An explanation of the member's rights to appeal G.L. c. 32, § 16(3) and (4) is attached to this document. Upon request, the retirement board shall assist the applicant in the filing of an appeal.

<u>Pechner-James</u> Member's Last Name	<u>Terri</u> First	<input type="checkbox"/> M.I.	<u>017-56-5959</u> Social Security #
<u>157 Conant Street</u> Member's Street Address	<u>Revere</u> City	<u>MA</u> State	<u>02151</u> Zip
<u>Patrol Officer</u> Job Title	<u>Chief Terence Reardon</u> Employer		

To All Parties:

You are hereby notified that on Oct. 23, 2002 the Revere Retirement Board has denied the application of Chief Reardon for the involuntary accidental disability retirement of Ms. James the following reason(s):

Board did not find substantial evidence to support the Department Head's  
application for the involuntary accidental disability retirement of Ms. James.

*Andrew R. Bisignani*  
Signature of Board Chairman

10/23/02  
Date

Andrew R. Bisignani  
Name of Board Chairman

The member has the right, according to statute, to appeal this decision within 15 days of receipt of this notice to the Contributory Retirement Appeal Board (CRAB), 133 Portland Street, Third Floor, Boston, MA 02114. CRAB's telephone number is (617) 727-7060. Members should contact their retirement board for assistance in filing an appeal.



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## Chapter 32: Section 16(3) &amp; 16(4) of the General Laws of Massachusetts

**3: Right of Review by District Court**

(a) Any member classified in Group 1, Group 2 or Group 4 who has attained age fifty-five and completed fifteen or more years of creditable service, or any member so classified who has not attained age fifty-five but who has completed twenty or more years of creditable service, or any such member who is a veteran and has completed ten or more years of creditable service, and who is aggrieved by any action taken or decision of a board or the public employee retirement administration commission rendered with reference to his involuntary retirement under the provisions of subdivision (1) or to his removal or discharge as set forth in subdivision (2), or any member who is aggrieved by any action taken or decision of a board or the public employee retirement administration commission rendered with reference to his dereliction of duty as set forth in section fifteen, may, within thirty days after the certification of the decision of the board, bring a petition in the district court within the territorial jurisdiction in which he resides praying that such action and decision be reviewed by the court.

After such notice as the court deems necessary, it shall review such action and decision, hear any and all evidence and determine whether such action was justified. If the court finds that such action was justified the decision of the board or the public employee retirement administration commission shall be affirmed; otherwise it shall be reversed and of no effect. If the court finds that such member was unjustifiably retired, removed or discharged from his office or position he shall be reinstated thereto without loss of compensation. The decision of the court shall be final.

(b) Any member whose office or position is subject to chapter thirty-one or to the rules and regulations made under authority thereof, who is aggrieved by any action taken or decision of a board or the public employee retirement administration commission rendered as described in paragraph (a) of this subdivision shall, for the purposes of sections one to twenty-eight, inclusive, have and retain such of the rights provided by sections forty-two A, forty-two B, forty-three and forty-five of chapter thirty-one as applied to his particular office or position, and the court shall, in addition to the matters it is required to review under such sections of chapter thirty-one, affirm or disaffirm the decision of the board or the public employee retirement administration commission as provided for in paragraph (a) of this subdivision.

**4: Right of Appeal to Contributory Retirement Appeal Board**

There shall be an unpaid contributory retirement appeal board which shall consist of three members as follows: an assistant attorney general who shall be designated in writing from time to time by the attorney general who shall act as chairman, the public employee retirement administration commission or an assistant who shall be designated in writing, from time to time, by the said commission, and a member appointed by the governor for a term of five years. In the event the matter before the contributory retirement appeal board deals with any matter related to disability retirement or interim benefits as awarded by the division of administrative law appeals, the commissioner of public health or his designee shall substitute for the public employee retirement administration commission.

The members of the contributory retirement appeal board shall be compensated for any expenses incurred in the performance of their official duties. On matters other than those subject to review by the district court as provided for in subdivision (3), or other than those which would have been subject to review had the requirement for the minimum period of creditable service been fulfilled, any person when aggrieved by any action taken or decision of the retirement board or the public employee retirement administration commission

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**Section 16(4): Right of Appeal to Contributory Retirement Appeal Board (Continued)**

rendered, or by the failure of a retirement board or the public employee retirement administration commission to act, may appeal to the contributory retirement appeal board by filing therewith a claim in writing within fifteen days of notification of such action or decision of the retirement board or the commission, or may so appeal within fifteen days after the expiration of the time specified in sections one to twenty-eight, inclusive, within which a board or the commission must act upon a written request thereto, or within fifteen days after the expiration of one month following the date of filing a written request with the board or the commission if no time for action thereon is specified, in case the board or the commission failed to act thereon within the time specified or within one month, as the case may be. The contributory retirement appeal board, after giving due notice, shall, not less than ten nor more than sixty days after filing of any such claim of appeal, assign such appeal to the division of administrative law appeals for a hearing. The division of administrative law appeals shall maintain the official records of the contributory retirement appeal board. After the conclusion of such hearing, the division of Administrative Law Appeals shall submit to the parties a written decision which shall be final and binding upon the board involved and upon all other parties, and shall be complied with by such board and by such parties, unless within fifteen days after such decision, (1) either party objects to such decision, in writing, to the contributory retirement appeal board, or (2) the contributory retirement appeal board orders, in writing, that said board shall review such decision and take such further action as is appropriate and consistent with the appeal provided by this section. The contributory retirement appeal board shall then pass upon the appeal within six months after the conclusion of such hearing, and its decision shall be final and binding upon the board involved and upon all other parties, and shall be complied with by such board and by such parties. Any person, upon making an appeal involving a disability retirement allowance, shall be permitted to retire for superannuation retirement, if otherwise eligible, pending the decision of the contributory retirement appeal board, but in no event shall such action prejudice the person from receiving any further benefits which the contributory retirement appeal board may grant in its decision nor shall the person upon a finding in favor of the employer be required to reimburse the employer for payments made prior to the decision of the contributory retirement appeal board.

On appeals involving disability or where medical reports are part of the proceedings, the contributory retirement appeal board may request further information from the members of the appropriate regional medical panel, or may employ a registered physician to advise them in determination of an appeal.

The contributory retirement appeal board shall have the power to subpoena witnesses, administer oaths and examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. Fees for such witnesses shall be the same as for witnesses before the courts in civil actions, and shall be paid from the Appropriation Fund of the division of administrative law appeals.

The contributory retirement appeal board, acting through the division of administrative law appeals, shall arrange for the publication of its decisions and the cost of such publication shall be paid from the Appropriation Fund of the division of administrative law appeals.

The contributory retirement appeal board shall establish a fee structure for appeals brought under this section, which shall be subject to the approval of the commissioner of administration.

The division of administrative law appeals shall submit to the contributory retirement appeal board on an annual basis a report on the status of all cases that have been assigned to the division of administrative law appeals for a hearing.

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**(5): Provisions Not Applicable to Certain Members**

The provisions of this section relative to the right of any member to a hearing or to the right of review by the district court shall not apply in the case of the removal or discharge of any state official or of any official of any political subdivision of the commonwealth for which provision is otherwise made in any general or special law, anything in this section to the contrary notwithstanding. The provisions of this section relative to the right of any member to a hearing or to the right of review by the district court shall not apply to any teacher or principal or superintendent of schools employed at discretion or any superintendent employed under a contract, for the duration of his contract, or any principal or supervisor, who has been dismissed, demoted, or removed from a position by a vote of a school committee under the provisions of section forty-two, forty-two A or section sixty-three of chapter seventy-one. The provisions of this section shall not apply to any member classified in Group 3.